

# FULL STENOGRAPHIC REPORT OF TESTIMONY IN THAW TRIAL

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# FINAL RESULTS EDITION

PRICE ONE CENT.

NEW YORK, TUESDAY, FEBRUARY 5, 1907.

## \$20,000 FOR ACTRESS FAY TEMPLETON

Appraiser Allows That  
Sum in the Division of  
Howell Osborn Estate.

ENDS LONG LITIGATION.

Case Has Been Before Courts  
Since Osborn's Death  
Twelve Years Ago.

Fay Templeton comes into \$20,000 as the result of the winding up of the estate of Howell Osborn, according to the report of James Yareance, the appraiser appointed by Surrogate F. J. Gerald a year ago. This will probably close the twelve years' litigation over the vast estate accumulated by Charles J. Osborn, father of Howell. He died in 1885, leaving his estate to his widow, Miriam Osborn, who died in 1891. Howell has grown up enough to have developed a williness which caused his mother much anxiety, and by her will she left only the income of a trust fund of \$200,000 to Howell, with a provision that at his death the fund was to be distributed among his children, "provided that he did not marry a dancer, a singer or an actress."

Howell Osborn had already developed a fondness for the witless Fay Templeton. She was then only a short time divorced from "Billy" West, the minstrel, to whom she was married in a Kentucky town, her bridal outfit being a torn and faded stage gown. Of the rest of Mrs. Osborn's \$2,000,000 she left trust funds of \$50,000 each for her sisters, Mrs. H. Hobart Mason and Mrs. William H. Henricque, and a like amount to her niece, Mrs. Lella Olyve Nassau, and the wife of Douglas J. Nassau, then of London, for "Bill" Ellison had not at that time come into her life. Mrs. Osborn left the residue of her estate to the Miriam Osborn Memorial Home for Aged Women.

Her sisters contested the will, but lost. Howell Osborn died in February, 1896, before the contest was settled. He left a will made in June, 1894, bequeathing \$1,000 to his little cousin, Henrietta Olive Trowbridge, an orphan adopted by his mother, and the balance of his estate to Fay Templeton, who claimed to be his widow. The will gave her the privilege of taking of his estate what she liked in lieu of a residuary legacy, "not to exceed \$100,000 in value."

It will be exactly twelve years since Howell Osborn died. Litigation has held up the distribution of his estate all that time, but probably Mrs. Templeton will be glad to get that \$20,000, even at this late date.

The appraisal of the estate shows that Osborn left \$114,750 in stocks, bonds, etc., with no real estate and with debts of \$7,575. Miss Trowbridge, now grown into womanhood, will receive his bequest of \$1,000 and William B. Oliver \$1,000.

The referee says that the \$20,000 is the share under Howell's will of "Fay Templeton, not a relative."

Men Post Forfeit for  
a Side Bet of  
\$5,000.

(Special to The Evening World.)  
PHILADELPHIA, Pa., Feb. 5.—Joe Gans, of Baltimore, and Harry Lewis, of Philadelphia, met by appointment in this city this afternoon and signed articles of agreement for a finish fight for \$5,000 a side for the lightweight championship of the world and the biggest purse offered.

The men are to fight at 133 pounds, they to weigh in at the ringside. Bids for the fight will be opened here at noon Feb. 28.

The announcement of the agreement between these pugilists to meet in a finish fight caused something of a stir in local sporting circles, and speculation is rife as to just where the mill will be pulled off.

RACING KILLED  
IN TENNESSEE

## BRIGGS WINS JERSEY BATTLE FOR THE SENATE

Legislature Elects Him to  
Succeed Dryden in  
Washington.

HAD SLIM OPPOSITION

Republicans, with Two Excep-  
tions, Solid for Him—Mar-  
tine Democratic Nominee.

TRENTON, N. J., Feb. 4.—In joint session here to-day the Legislature chose Frank O. Briggs, of Trenton, to succeed John F. Dryden in the United States Senate. He received 41 out of 78 votes cast. Senator Ackerman (Republican), voted for ex-Gov. Orin, and Senator Colby voted for Justice Pitney.

James E. Martin, the Democratic nominee, received 35 votes. There were two Democratic absentees. The only Republican absentee was Assemblyman Bucks, who is sick. Mr. Briggs was born in New Hampshire in 1850. He was a student at Phillips Exeter Academy and was graduated from West Point in 1872.

He has always been prominently identified with politics since leaving the army. He was elected Mayor of Trenton in 1899 and in 1902 Gov. Voorhees appointed him State Treasurer, which position he still holds. In 1904 Mr. Briggs was elected Chairman of the Republican State Committee, and is still at the head of the committee.

When Wiley was sufficiently wrecked, Dr. Bingaman, also from Pittsburg, took the stand. He testified that he had known Thaw for thirty years, and that as a child the prisoner had suffered from most infant troubles, and that he had an attack of St. Vitus's dance. This witness was not cross-examined.

He was followed by Alfred Lee Thaw, a cousin of the accused. He was called to establish the strain of insanity in the Thaw family, but there was a prolonged argument over the admission of this testimony. It is the purpose of the defense to show that the father of the witness died a lunatic.

DEFENSE BADLY MIXED.

In sharp contrast with the business-like methods of the prosecution, Thaw's counsel were all along in doubt regarding which witness they would call next, and what questions they would ask him once he had been called. There was a lack of system and a slackness about their conduct of the business of the defense all through the day.

Mr. John B. Gleason had active charge of the case. His colleagues sat mute and mournful from 10 to 5. Without criticizing Mr. Gleason, it may be said that his style of examination and his fashion of meeting Jerome's crafty objections and cross-arguments were cut off the same piece with his opening address yesterday.

It was an inauspicious beginning of Thaw's case. At three o'clock this afternoon, when Wiley was getting so tangled in his statements that it looked as if a rescue party would have to fight its way to the witness stand and save the flustered physician from total extinction, Harry Thaw, with a frown locked in his heavy brow, turned to one of his experts Dr. Charles G. Wagner, superintendent of the Binghamton Asylum, and whispered angrily:

"Why does he testify? He doesn't know anything about my case, anyhow. I don't like this."

COUNSEL TRY TO EXPLAIN.

Mr. Hartridge, of Thaw's counsel, said the defense never contemplated calling Wiley as an expert. He explained the failure of the defense to object to Jerome's method of questioning Wiley by saying Thaw's lawyers wanted to get a line on Jerome's method of meeting and combating the testimony of the real experts.

Justice Fitzgerald had been sitting only a few minutes when the doctor said in answer to a direct question from Mr. Jerome:

"I believe Harry Kendall Thaw was insane when he killed Stanford White on the 25th of June last."

Dr. Wiley is a bald, keen-faced man of middle age, with an essentially professional look about him. Mr. Gleason examined the physician. By way of introducing the witness Mr. Gleason brought out the fact that Wiley had made a study of insanity and that he had formerly been Assistant Superintendent of the Pennsylvania State Asylum.

AN IRRATIONAL INCIDENT.

"Do you recognize this defendant as a man whom you saw in 1905?" asked Mr. Gleason, pointing to his sullen, moody-faced, broody client, who sat poring over a letter, apparently oblivious of what was going on.

"Yes," said the physician. Then he described this scene: "I was riding on a Fifth avenue car in Pittsburg. It was in the

# THAW'S COUSIN ON THE STAND; ONE EXPERT GOES TO PIECES; PRISONER BECOMES ANGRY

Dr. Charles H. Wiley, of Pittsburg,  
First Witness for the Defense,  
Makes a Strong Assertion in  
Favor of the Prisoner.

JEROME AT FIRST FAILS TO  
SHAKE HIS TESTIMONY.

He Testified that the Prisoner Was Insane the  
Night He Shot and Killed His Enemy,  
Stanford White—Thaw Angry at Put-  
ting Him on the Stand.

One of the witnesses for the defense of Harry K. Thaw, a Dr. Wiley, of Pittsburg, was completely nonplussed while under cross-examination by Mr. Jerome to-day. The doctor testified that in his opinion Thaw was insane when he killed Stanford White. He held his ground for nearly two hours, but then he gave way, while Mr. Jerome, prompted by Dr. Carlos F. McDonald, fired a terrific volley of questions at him that showed the Pittsburg man to have a very rudimentary knowledge of his profession.

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## LATEST NEWS.

SUBWAY BUILDER HEADS NEW PANAMA COMPANY.

John B. McDonald, the builder of the Subway, was to-day elected President of the Panama Construction Company, which has been organized for the purpose of building Panama Canal.

GUN EXPERT A GOOD WITNESS FOR SIMPSON.

RIVERHEAD, Feb. 5.—Neaph Augar, a firearm expert, proved a good witness for the defense in the Simpson trial this afternoon. He testified that the gun could be discharged without any fingers being on hammers or triggers, if hammers were cocked. The explosion could have been caused by the breaking of the gun, he said, the pull upon the hammers being unsafe and the right firing pin loose and out of order.

LATE NEW ORLEANS RESULTS.

Fourth—Keator 1-2, Geolian 8-5 place, Minot.  
Fifth—Exelment 8-7, Primice Brutus out place, Bazil.  
Sixth—Tinker 5-7, Goldie out place, Rebound.

summer of last year. Mr. Thaw got aboard. His appearance was in every way normal. He seized one of the window curtains and pulled it up suddenly in this manner (indicating). The conductor came and pulled it down. Then Mr. Thaw slipped the curtain up again. He repeated this act several times.

"Was this action in your opinion rational or irrational?" Mr. Jerome objected to the form of the question. He was over-ruled. Then Wiley answered:

"In my opinion it was irrational," he said slowly.

POINT FOR THE DEFENSE.

To the witness Mr. Gleason next put a long hypothetical question, in which he embodied Harry Thaw's alleged composure just before the shooting of Stanford White, and his matter-of-fact demeanor and queer remarks immediately after the shooting, winding up as follows: "What would you say, speaking professionally, of such conduct as I have detailed?"

Mr. Jerome wanted to object, but Justice Fitzgerald waved him aside with a brusque, "Go ahead, sir." Plainly Justice Fitzgerald intends to throw a lot of red tape out of the window in this trial. So Dr. Wiley gave his reply: "I should say that such conduct would be clearly irrational."

Mr. Gleason was obliged to reframe a long, double-jointed, hypothetical question after Justice Fitzgerald had cautioned the witness to give attention to no side issues or elements of conjecture in his answer.

This time Mr. Gleason made it plain for the first time that the defense hoped to show this important thing:

Harry Thaw did not lie in wait for White on the roof of Madison Square Garden, and that he did not walk up and down watching his intended victim and priming his brain with fury for the deed, but that on his way out of the roof garden with his party he came suddenly face to face with White and, acting without premeditation, and solely on impulse of the moment, he fired the fatal shot.

Here is the part of Gleason's language which displayed this new trend in the general plan of the defense: "Assuming that such a man, in the act of going away with his friends and while in apparent good humor, suddenly turned aside and, without a word of warning to his friends or any one else, fired three bullets into a man sitting quietly at a table; and, assuming further," etc., etc.

MAY SHOW LACK OF COLLUSION.

It will be seen also that if the defense fights this phase of its case out along the lines of the reframed hypothetical question it will try to show that neither Evelyn Thaw nor any of Thaw's other companions knew anything of his intention.

In reply to the question in its remodelled shape, Dr. Wiley said that basing his answers on the laws of New York covering insanity, he would again repeat his previous conclusion that Harry Thaw was insane at the time of the commission of the crime.

Mr. Jerome conducted the cross-examination. He brought out the fact that Dr. Wiley was unacquainted with the legal limitations of insanity as an excuse for crime under the laws of New York.

"I speak merely as a medical man," explained the physician. "I do not know the law's definition of insanity in this State."

"Do you call yourself an expert in insanity?" said Mr. Jerome.

"Well, I have given the subject of insanity much study," said Dr. Wiley, as a nice, bright pink flush mounted into his clean-shaven cheeks.

"Then you are not an expert," suggested Mr. Jerome.

"I don't care to answer such a question in such a way," finally said the pestered Pittsburger.

"Have you great knowledge?"

"Well, I have, as I say, my share of the knowledge of the subject."

"Are you generally regarded as an expert by your profession?" persisted the District Attorney.

"I believe I am," said the witness.

"Well, do you share the opinion of your profession in this regard?"

"I do in a measure," answered Wiley.

INSANE AT THE KILLING.

"Well, do you now give as your professional, scientific opinion under

Dr. Bingaman Tells of the Childhood  
of the Accused and Says  
He Suffered from Saint  
Vitus's Dance.

ALFRED LEE THAW CALLED  
TO ESTABLISH INSANITY PLEA.

District-Attorney Objects to Using in the  
Mental Condition of Any Collateral  
Member of the Prisoner's  
Family.

Oath that a man who behaves as you say Harry Thaw behaved in the Fifth avenue car last summer was insane at the time?"

"I should say that at the time he was insane."

"That will do, sir," said Jerome.

Dr. Wiley was asked if in his opinion Harry Thaw knew he was doing wrong when he killed White?

"I should say that he did not know what he did was wrong," said the expert.

Mr. Jerome wanted to show that Dr. Wiley had said a moment before that Thaw knew he was doing wrong. He failed to show any such thing.

Mr. Jerome had to have another whack at the so-called expert in the witness chair. "Do you think a person who reaches a false conclusion by false premises is insane," he asked.

"Sometimes."

"Do you regard Christian Scientists as insane?"

"Not necessarily," said Wiley, calmly, with the voice of a doctor whispering a diagnosis across a sick room.

"Do you think Christian Science is a false conclusion, based on false premises?"

"I don't know what their premises are," was the non-committal response.

JEROME AN EXPERT HIMSELF.

Mr. Jerome now proceeded to aim at Dr. Wiley a pouring stream of questions regarding the capillary circulation, the dilation of arteries, the pathology of the arterial system and other things which showed the District-Attorney had been dipping into collateral medical subjects in preparing himself for this trial. It presently developed that he wanted to know what Dr. Wiley would assume Harry Thaw's physical characteristics to have been on the night of the killing of Stanford White. The District-Attorney grew a bit heated. Dr. Wiley's temperature likewise went up approximately 70 to 80 degrees. His face turned to the color of a hot fire-brick.

"Are you depending on scientific facts or on a mere hearsay?" shouted Jerome, poking his face forward at the witness.

"On facts," snapped Wiley, bringing his jaws together with a snap like a bolt turning in a lock. "On facts, sir; plain facts."

"Then why do you answer this way?" exclaimed Jerome, trying, apparently to bait the doctor into an exhibition of temper.

A RAP FOR THE DISTRICT ATTORNEY.

"I try to answer fairly when I am interrogated in a gentlemanly way, sir," was the retort. Jerome grinned happily.

He described how Thaw had walked away from his victim with his gun held high in the air, and wanted to know if Wiley thought that that action was an evidence of insanity.

"Taken with other things, I would say it was suspicious," answered Dr. Wiley, readily.

"Now, then," went on Jerome, "wouldn't you assume that this was rather the act of a rational man who held his gun aloft, as I have indicated, as an evidence to the 900 persons in the audience that he was through with the job? Wouldn't you think it was an entirely sensible means of seeking to avert a panic?"

"This action itself might be sane, but it might also be part of an insane performance," said Dr. Wiley. "Certain racial operations of the mind may enter into an insane sequence of events."

Thaw apparently paid no heed to what was going on in front of him. He read his letters and smiled to himself at certain things in them; he examined his finger nails critically; he whispered to A. Russell Peabody or to the experts in handwriting and insanity who had grouped themselves into a compact, high-priced group about his counsel chamber. The railed-in space where Mr. Jerome worked was also filling up with the sceptical, cold-eyed alienists. There must have been on hand at least a dozen of these phenologists of the inside of the human head, all enjoying the spectacle of their Pittsburg brother spearing with the aggressive prosecutor.

SERVED AS EXPERT BEFORE.

"How often have you testified in murder cases as an alienist?" asked Mr. Jerome.

"Several times—six or seven."

"Is jealousy an evidence of insanity?"

"Not unless accompanied by other things—jealousy in itself is not insanity."

"Now, then, Mr. Scientific Expert," said the District-Attorney cuttingly, "do you think this man's declarations at the time of the shooting were evidences of insanity?"

The physician started to answer, but Mr. Jerome halted him in mid-flight of his statement.

"Did I ask you that, sir?" he inquired of Dr. Wiley, mournfully, almost tearfully. "Did I ask for your impressions? Did I request you to import your own opinions into this case? Now, then, I ask you this: Do you re-